

ACCOUNTING AND FINANCE REGULATIONS BY STATE ISLAMIC RELIGIOUS COUNCIL AND WAQF, ZAKAT AND BAITULMAL INSTITUTIONS IN MALAYSIA

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ABSTRACT

This paper discusses legislation adopted by the State Islamic Religious Council (MAIN) and the waqf, zakat and baitulmal institutions (WZB), particularly in relation to accounting and finance. The study involved only the states of Perlis, Kedah, Penang, Perak and Sarawak. The Federal Constitution, the Statutory Bodies (Accounts and Annual Reports) Act 1980 (Act 240), and several Acts relating to this topic are discussed. Meanwhile, the Administration of Islamic Religious Administration and the Ordinance of each state was also examined to discuss this. The data was obtained through interviews with accountants or financial officers of MAIN and WZB institutions. In addition, research on important documents such as the ACT, financial regulations and annual reports of MAIN and WZB institutions was also undertaken. The results of this study have provided a new input into the legal knowledge used by MAIN and the WZB institutions in accounting and finance. Finally, the findings of this study have also been an important input in the formulation of Islamic accounting standards by the Accounting Department of Malaysia (JANM).

Keywords: Zakat; accounting; legislation; MAIN

FEDERAL CONSTITUTION

The Federal Constitution is the highest law in Malaysia (the Federal Constitution, Article 4). It is above all laws, Enactments, and Ordinances in force in this country. The Constitution provides for the governance of the country in accordance with the practice of the democratic system and the Constitution. The Constitution may be amended by the support of at least two-thirds of the Members of Parliament or the support of two-thirds of the Members of Parliament with the consent of the House of Commons (Federal Constitution, Article 159). Article 3 of the Federal Constitution also establishes that Islam is a Federal religion in addition to other religions freely practiced in the State (Federal Constitution, Article 11).

Returning to the scope of this study, wakaf, zakat, and baitulmal or similar Islamic Religious Outcomes are referred to in the Federal Constitution, Part VII of the Financial Provisions of Article 97 Clause 3, as follows:

“Any such Zakat, Fitrah, Baitulmal or Islamic Religious proceeds, such proceeds shall be paid into a separate fund and shall not be payable except under the authority of State law or federal law, as the case may be. where applicable. ”

The provision clearly states that all money related to Islam must be recorded separately and may not be mixed with other funds. The provision also clarifies that money related to Islam is subject to state law, the Enactment or the Ordinance. In certain cases federal law also applies such as the Statutory Bodies (Accounts and Annual Reports) Act 1980 (Act 240).

Each state has its own legislation known as the Enactment or the Ordinance and the Federal Territory is the only state that has its own statute other than the Federal Constitution. This study examines all of these legislations either federal or state in the context of the laws relating to MAIN and WZB institutions and focuses more on the financial matters of five states namely Perlis, Kedah, Penang, Perak and Sarawak (Zone 2). The objective is to review and identify legislation adopted by the State Islamic Religious Council (MAIN) and the waqf, zakat and baitulmal institutions (WZB), particularly in relation to accounting and finance.

Statutory Bodies (Accounts and Annual Reports) Act 1980 (Act 240)

Section 5 (1) of the Statutory Bodies (Accounts and Annual Reports) Act 1980 Act (240) provides for the time limit for the preparation and submission of statements of accounts to the Auditor-General for audit. The section states the following:

“Every statutory body shall keep other records of its operations in accordance with generally accepted accounting principles and shall cause the preparation of its accounts for each financial year and, within six months after the end of the financial year such or any extension thereof as provided under section 9, shall submit it to the Auditor-General for audit. ”

This indicates that the application of the Statutory Bodies Act 1980 to MAIN is in the context of accounts and annual reports as the section clearly states that the need for proper records is kept in accordance with generally accepted accounting principles. The term "general" can also be interpreted as the accounting principle applied to it is a principle familiar or unfamiliar to any statutory body. Most MAINs through the provisions of the state Islamic Religious Administration Enactment require the adoption of the Statutory Bodies (Accounts And Annual Reports) Act 1980 (Act 240) in relation to accounts and annual reports. Whereas Section 11 (2) (b) of the same Act relating to the Minister may make rules, stating the following:

"Sets guidelines for generally recognized accounting principles, accounting policies and other accounting or financial matters in relation to the accounts of a statutory body."

However, the interpretation of whether MAIN or the WZB institution itself is a statutory body or rather is a question. This is because each MAIN or WZB established under the respective Islamic Religious Administration Enactment or Ordinance. However, there are provisions in most Islamic State Administration Enactments which provide for MAIN to apply to the Statutory Bodies (Accounts and Annual Reports) Act 1980 (Act 240). This provision clearly states that in preparing accounts and annual reports, the MAIN must comply with the provisions of the Statutory Bodies Act. However, this Act provides for general provision of accounts and annual reports as provided in Section 5 (1) of the Act. For statutory bodies in Malaysia, the Treasury of Malaysia issued the Treasury Instructions as the main reference in the preparation of accounts and in connection with finance. The current Treasury Instructions are issued in 2008 or otherwise known as AP 2008.

However, the Treasury Directive applies only to public money while Section 3 of the Financial Procedure Act 1957 (Act 61) provides that public money is all proceeds, loans, trusts and other money as well as all other bonds, debentures and securities received by the Federal government or State but does not involve zakat, fitrah or Baitulmal. By such provision, the MAIN or the WZB institution is not bound by the Treasury Directive.

State Islamic Religious Administration Enactment

The financial section of the State Administration of Islamic Religious Enactment, in particular, was also released in detail. The topics discussed in this study are about Baitulmal and the Financial Procedure of MAIN, Waqf, Nazr and Trust and Zakat. Matters related to Baitulmal and the MAIN Financial Procedures will be detailed in the context of Baitulmal Establishment, Zakat Fund, Administration and Management Fund, benefits or benefits of general or special purpose, MAIN expenses and the like, Disposal, Cancellation and Calculation and Accounts and Reports Annually. Meanwhile, matters relating to the Waqf, Nazr and the Trust will affect the scope of Income and Broadcasting of Property Listings. Table 1 summarizes the enactments and ordinances adopted by the states.

Table 1

State and Enactment / Ordinance

State	Enactment / Ordinance
Perlis	Islamic Religious Administration Enactment 2006 The Statutory Bodies Act 1980 (Act 240) applies to the Council
Kedah	Administration of Islamic Law Enactment 2008 Kedah Darul Aman Zakat Board Enactment 2015 (For LZNK) The Statutory Bodies Act 1980 (Act 240) applies to the Council
Pulau Pinang	Islamic Religious Administration Enactment 2004 The Statutory Bodies Act 1980 (Act 240) applies to the Council
Perak	Islamic Religious Administration Enactment 2004 2015 Endowment Enactment The Statutory Bodies Act 1980 (Act 240) applies to the Council
Sarawak	Sarawak Islamic Council Ordinance 2001

Establishment of Baitulmal, Zakat Funding, Waqf Fund

The state enactments and / or Ordinances involved also provide for the establishment of Baitulmal and have been stated as follows "A fund called Baitulmal is hereby established" [Perlis, Section 81 (1); Kedah, Section 47 (1); Penang, Section 81 (1); Silver, Section 70 (1); Sarawak, Section 45 (1)]. These sections state that Jerusalem is referred to as the Fund and not as an institution. This is supported by the provisions of the Federal Constitution, Article 97 Clauses 2 to 3. This article states that all income and money earned or received by a state including Zakat, Fitrah, Baitulmal or similar proceeds must be paid into and in one group

money.

However, the provision also clarifies that the proceeds related to Zakat, Fitrah, Baitulmal or similar religious produce must be paid into a separate fund. Therefore, there is an important question regarding the terms of the Fund, is it possible to apply the Islamic Accounting Standards (PPI) in the conduct of MIAN financial arrangements if the fund is not classified as an institution? The answer to this question can be seen in terms of segregation of funds, this will support the implementation of PPI for WZB institutions. In addition, the Sarawak Islamic Council Ordinance provided for another section, Section 43 (1) on the establishment of the Baitulmal and Wakaf Board acting and empowered to collect and manage the collection of contributions to Baitulmal as well as to utilize and distribute income from special wakaf to the people persons for the purposes specified in the wakaf. It is clear that the Sarawak Islamic Council Ordinance defines the jurisdiction and scope of the Baitulmal and Wakaf Board itself as compared to other states which do not clarify whether it is referred to as a fund or institution. In addition, the use of the Terms of Revenue used in Article 97 of the Federal Constitution to mean all matters pertaining to Zakat, Waqf, Baitulmal and other Islamic Religious money does not conform to the accounting system which refers to the terms of Revenue as income earned. Therefore in designing PPI, the definition of Results should be accurate and consistent with the objectives of this study.

While the Administration of Islamic Religious Administration Enactment 2004 (Amendment 2012) adopted by the Perak Islamic Religious Council has detailed the separate accounts that Baitulmal should have separate accounts such as Zakat Property and Zakat Fitrah, Wakaf and nazr 'am, Source Resources, and Trust- other trusts as well as 'General' Resources. This provision is further defined under Section 70 1 (A) & 1 (B). In addition, under the auspices of the Baitulmal establishment there were also touches on money and property. The provisions of Baitulmal shall consist of all money and property, movable or immovable, in accordance with Islamic Law; all money and property in the Baitulmal shall be vested in the Council, as well; any investment, asset or fund vested in the Council may be sold, manufactured and disposed of, and the proceeds may be invested in trust fund investments pursuant to Islamic Law. All five states provide the same except for the State of Sarawak which details the details that Baitulmal comprises, not limited to all Islamic property or deceased property; all fees, money, charity and property; any contributions, any donations, contributions, donations,

contributions; any property, investment, mortgage, etc. in accordance with Section 45 (2) (a) to (k).

When it is generally stated that any investment in the form of assets and money vested in MAIN can be sold, made and disposed of, the question that may arise is whether the proceeds from zakat and waqf can also be recognized in this category and evaluated and allowed for sale, manufactured and disposed of? These may be implications and limitations in implementing PPI. The provisions of the State Administration of Islamic Religious Enactment should be considered in more detail so that they are not misinterpreted. Therefore, the provision for zakat and waqf funds should be interpreted and excluded for investment purposes. This provision should be amended in the State Administration of Islamic Religious Enactments.

In addition, for the states of Kedah and Perak, there are specific Enactments related to Zakat and Waqf namely the Kedah Darul Aman Zakat Board Enactment 2015 and the Waqf (Perak) Enactment 2015. Section 30 (1) of the Kedah Darul Aman Zakat Board Enactment 2015 states a fund is established known as the "Zakat Fund". Section 31 (1) provides for a fund known as the "Administration and Management Fund" established but without details on sources of income, revenue and collection. It is found only in Section 31 (2) that one-eighth of the Zakat Fund is for administrative and management expenses. In this Enactment, there is no specific provision for Zakat property or money to be sold, manufactured and disposed of, and the proceeds may be invested from time to time as contained in the State Islamic Religious Administration Enactment.

While the Waqf (Perak) Enactment 2015 under Section 34 (1) also provides that the MAIN shall establish a fund known as the Waqf Fund which comprises the wakaf (mawquf) fund and the waqf (Perak) Enactment 2015, Section 34 (2)). The enactment also states that the waqf fund and benefit accounts must be created separately but no provision for the property and the waqf money can be sold and the like but the mawquf cannot be part of Baitulmal and MAIN can direct that the property be included in the Fund. Waqf as a general waqf (Waqf (Perak) Enactment 2015, Sections 35 (1) - (2)). This provision is in contravention of section 70 (2) of the Perak Islamic Religious Administration Enactment 2004 (Amendment 2012) which states that Baitulmal money is made up of all types of monies in compliance with

Islamic Law. Such differences and discrepancies need to be taken seriously by the parties involved in order for the PPI to be formulated in the future. A summary of the establishment of the Baitulmal and the Fund can be found in Table 2.

Table 2

Establishment of Baitulmal and Fund

State	Establishment of Baitulmal and Fund
Perlis	Islamic Religious Administration Enactment 2006 Section 81 (3) All money and property in Jerusalem shall be vested in the Council.
Kedah	Administration of Islamic Law Enactment 2008 Section 47 (2) of Baitulmal shall consist of all moneys and property, movable or immovable, in accordance with Islamic Law. Kedah Darul Aman Zakat Board Enactment 2015 Zakat Fund. Section 30 (1) A fund known as the 'Zakat Fund' is established and shall be administered and managed by the Board. Administration and Management Fund. Section 31 (1) A Fund known as the Administration and Management Fund is established.
Pulau Pinang	Islamic Religious Administration Enactment 2004 Section 81 (2) Baitulmal shall consist of all moneys and property, movable or immovable, in accordance with Islamic Law.
Perak	Islamic Religious Administration Enactment 2004 Section 70 (2) of Baitulmal shall consist of all moneys and property, movable or immovable, in accordance with Islamic Law. Endowment Enactment 2015 Establishment of Waqf Fund. Section 34 (2) of the Waqf Fund shall consist of waqf fund and waqf benefit.
Sarawak	Sarawak Islamic Council Ordinance 2001 Section 43 (2) It shall be the responsibility of the Baitulmal and Wakaf Board, for and on behalf of the Council.

CONCLUSION

The Federal Constitution through Articles 3, 11 and 97 has given Islam the privilege of whether the religion itself is in the constitution as far as the methods and procedures of recording, storing and using money related to Islam. The Federal Constitution also empowers states to administer and administer money related to Islam. Enactments and ordinances of the Islamic Religious Administration States are the main law in each state to administer and administer money related to Islam in addition to the drafting of specific waqf and zakat enactments in certain states. Nevertheless, the Enactments and Ordinances provide for general

accounting and financial procedures. There is no clear provision in the Enactment and the Ordinance regarding the basics or accounting standards that should be applied by MAIN and WZB institutions.

REFERENCES

- Statutory Bodies Act 1980 (Act 240)
- Administration of Islamic Law (Kedah Darul Aman) Enactment 2008
- Kedah Darul Aman Zakat Authority Enactment 2015
- Islamic Religious Administration (State of Perlis) Enactment 2006
- Islamic Religious Administration (State of Penang) Enactment 2004
- Islamic Religious Administration (Perak) Enactment 2004
- Endowment (Silver) Enactment 2015
- Sarawak Islamic Council Ordinance, 2001
- Federal Constitution of Malaysia 1957